



Appeal Decision

Site visit made on 16 January 2023

by S A Hanson BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 February 2023

Appeal Ref: APP/Y3940/C/22/3294486

14 Keels, Cricklade, Swindon, Wiltshire SN6 6NB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Miss Emma Nash against an enforcement notice issued by Wiltshire Council.
 - The notice, numbered 19/653/ENF, was issued on 9 February 2022.
 - The breach of planning control as alleged in the notice is Without planning permission, operational development comprising of the erection of a timber fence shown identified between points A and B on the attached plan.
 - The requirements of the notice are to: a) Reduce the height of the fence, including all fence posts, to no more than one metre in height above ground level. b) Remove from the Land all materials and debris resulting from compliance with 5 a) above.
 - The period for compliance with the requirements is: 4 (four) months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The appeal on ground (a) and the deemed planning application

Main Issue

2. This is the effect of the development on the street scene and character and appearance of the surrounding area.

Reasons

3. The appeal site is in an established residential area characterised by dwellinghouses of similar design and appearance, and winding estate roads with branches of small cul-de-sacs. The distinctive feature of the surrounding area is its open plan character, with residential properties set back from the road, with lawns and driveways to the front. Where there are boundaries between properties and roadsides, these are generally of a low level, consisting of both hard and soft landscaping. This allows for lengthy sweeping views through the estate and a sense of openness. In granting the original permission¹ for the estate, the open plan frontages were considered an important aspect of the layout, and a condition was imposed to restrict means of enclosure.

¹ 73/RC/252/O condition 5

4. No. 14 is a two storey semi-detached dwelling situated on the entrance to Keels, a small cul-de-sac with 14 houses. Due to its positioning, the garden area to the front of No. 14 is relatively generous, more so than many other properties. Following the removal of a boundary hedge, a 1.8m high close boarded fence has been erected. This encloses the garden area and property frontage and limits views towards the other properties in the close and views outwards from these properties.
5. The fence fails to integrate into the existing pattern of development or enhance the overall character of the locality due to its materials, height and extent. It is a visually dominant and incongruous feature which jars with the predominantly open nature of the estate. While the hedge may have been of a similar height to the fence and considerably wider, visually the two are stark in contrast. The fence is a solid structure which provides an oblique hard boundary with the footpath, whereas a hedge is natural landscaping feature which allows for glimpses through and softens views against a backdrop of the built environment.
6. My attention has been drawn to examples of similar developments by the appellant and indeed during my visit, I walked through the estate and did experience some properties where areas had also been enclosed by a high level fence. The council, in its submissions, consider that while the examples provided by the appellant appear not to have planning permission, contextually there are differences and I concur having seen the examples in situ. Nevertheless, while I give the planning status of these little weight, the examples are few and far between and the estate principally retains its design concept of space and openness, and high level fences are not the prevailing pattern of the estate.
7. Overall, I find that the height of the fence is disproportionate to the boundary treatments used within the residential estate and which are within the public realm. This has resulted in an insensitive form of development which is visually harmful to and erodes the open plan character and appearance of its surroundings. This is particularly so because the development is clearly visible from neighbouring properties, and longer views when approaching the cul-de-sac. In this respect, the development fails to demonstrate high quality design and respond appropriately to the character and appearance of the area or the street scene.
8. By reason of the above, the development is in conflict with Core Policy 57 of the Wiltshire Core Strategy (2015) which states that new development should, amongst other things, respond positively to the existing townscape and landscape features in terms of building layouts and built form; whilst taking account of the characteristics of the site and the local context to deliver an appropriate development which relates effectively to the immediate setting and to the wider character of the area. It is also in conflict with Policy H3 of the Cricklade Neighbourhood Plan 2026 (Made March 2018) which requires development to integrate effectively into the existing fabric of the town and for proposals to include good quality design that responds to the character of its immediate locality. These policy requirements are consistent with guidance within the National Planning Policy Framework for achieving well-designed places.

Other Matters

9. The application form for planning permission² that was subsequently refused by the council cites the reasons for replacing an overgrown hedge with a 1.8m high fence, stating that the replacement fence would prevent loose dogs within the garden area running out onto the road. While this is naturally important, a fence to the height of 1m would generally be sufficient to contain most dogs. Furthermore, the plan provided by the appellant shows a section of the fence would slope from 1.8m in height reducing to 1m in line with the gate that is also shown as 1m in height. Nevertheless, although the high fence may provide a level of security for the appellant's dogs, this is not outweighed by the harm to the character and appearance of the area and street scene that I have identified.

Conclusion

10. Overall, the development harms the street scene and the character and appearance of the area and conflicts with the development plan as a whole. There are no material considerations to indicate a determination other than in accordance with the development plan. For the reasons given above, I conclude that the appeal on ground (a) should not succeed, and I shall refuse to grant planning permission on the deemed application.

S A Hanson

INSPECTOR

² 19/09234/FUL Retrospective removal of hedge and erection of 1.8m high featheredge fence. Refused by notice dated 30 June 2020